

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application 158/2009

Date of Order : 14.10.2011

**CORAM: HON'BLE DR. K.B. SURESH, MEMBER (J) &
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Gajanand Rathore S/o Shri Jagannath Rathore By Caste Rathore, aged about 56 years, R/o P-130/4, Somnath Lane, Eklinggarh Cant. Area, Udaipur, presently working as JE (E/M) in the Military Engineering Services under the AGE-1, Garrison Engineer, Eklinggarh Cant. Area, Udaipur.

.....Applicant.

By Mr. Manoj Bhandari, Advocate.

Versus

- 1- The Union of India through the Secretary, Ministry of Defence, Government of India, Raksha Bhawan, New Delhi.
- 2- The Engineer-In-Chief, Military Engineering Services, Integrated Headquarter of MOD (Army) DHQ, PO New Delhi – 11.
- 3- The Chief Engineer, MES, Southern Command, Pune – 111001.
- 4- The AGE-1 (Garrison Engineer), MES, Eklinggarh Cant. Area, Udaipur.
- 5- The Director General (Personnel), Military Engineering Services, Engineering-In-Chief's Branch, Army HQs, Kashmir House, Rajaji Marg, New Delhi – 110 011.

..... Respondent

By Mr. Kuldeep Mathur, Advocate.

**ORDER (ORAL)
[PER DR. K.B.SURESH,JUDICIAL MEMBER]**

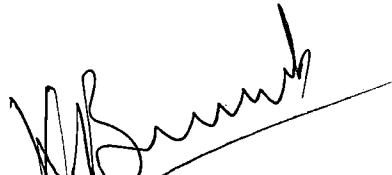
Heard the matter in detail and examined the pleadings and also the judgments produced by the learned counsel for the applicant.

The crux of the issue is that applicant now claims parity in treatment with two of his colleagues i.e. Shri Noorudin Ahmed Qazi and Shri M.K.Sharma. The issue against the applicant



seems to be that the respondents claimed that he will become entitled to the I ACP provided he passed a qualificatory benchmark test which the applicant very graciously agreed that he had not passed. Shri Qazi has passed the test and became eligible for substantive promotion and has been promoted. In M.K. Sharma's case the respondents admit that they made a mistake and had not informed neither Tribunal nor the High Court nor the Hon'ble Supreme Court that in fact Sh. M.K. Sharma was not qualified for such benefit, therefore, even without qualification it became necessary to grant the benefit to Sh. M.K. Sharma as contempt compulsions. Now the case of the applicant under Article 14 is that when his colleagues are granted a benefit he is also entitled to the same parimateria. We are unable to commit a mistake again and to be granting a privilege or right which is not in existence. Therefore, even though, such a benefit has been wrongly granted to Shri M.K. Sharma, at this point of time we are unable to enter in that picture regarding the I ACP. Mistake cannot confer any right on anybody even under the constitutional conspectus of Article 14. Therefore there is no merit in the contention raised by the applicant. The OA is dismissed. No order as to costs.


(Sudhir Kumar)
Administrative Member


(Dr. K.B. Suresh)
Judicial Member